

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID S. JOHNSON,)
)
Plaintiff,) Civil Action No. 16-1068
)
v.) Judge Cathy Bissoon
) Magistrate Judge Cynthia Reed Eddy
CITY OF PITTSBURGH,)
et.al.,)
)
Defendants.)

MEMORANDUM ORDER

This case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On May 11, 2017, the Magistrate Judge issued a Report (Doc. 42) recommending that Defendants' motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) (Docs. 24 and 32) be granted in part and denied in part. Service of the Report and Recommendation was made on the parties, and no objections have been filed.

After a review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

Defendants' motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) are GRANTED IN PART AND DENIED IN PART as follows:

(1) Plaintiff's Fourth Amendment and First Amendment claims against the City of Pittsburgh, the University of Pittsburgh and the University of Pittsburgh Police Department are dismissed without prejudice;

- (2) Defendants' motion to dismiss Plaintiff's Fourth Amendment claims against Officer Falarico, Officer Visnich, Officers John Doe 1 and 2 for their conduct in relation to Plaintiff's investigative detention is denied;
- (3) Plaintiff's Fourth Amendment claims against Officer Falarico, Officer Visnich, Officers John Doe 1 and 2 for their conduct in relation to seizing his personal property at the scene of his arrest are dismissed with prejudice;
- (4) Plaintiff's access to the courts claims against Officer Falarico, Officer Visnich, Officers John Doe 1 and 2 are dismissed with prejudice;
- (5) Defendants' motion to dismiss Plaintiff's punitive damages claims is denied;
- (6) Defendants' motion to dismiss any official capacity suits against the individual officers is granted;
- (7) The University Defendants' motion to strike specific dollar amounts of unliquidated damages and Plaintiff's "Statement to the Court – No Confidence" is granted and the specific dollar amounts of unliquidated damages are stricken from Plaintiff's complaint and Plaintiff's request that this case be transferred to the Court of Appeals for the Third Circuit is denied.

The Magistrate Judge's Report and Recommendation dated May 11, 2017, hereby is adopted as the Opinion of the District Court.

IT IS SO ORDERED.

June 5, 2017

s/Cathy Bissoon

Cathy Bissoon

United States District Judge

cc (via ECF email notification):

All counsel of record

cc (via First-Class U.S. Mail):

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